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August 17, 2016

Via ECF
Honorable Magistrate Steven L. Tiscione
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Abreu. v. The Hindu Temple et al.
E.D.N.Y. Docket No.: 15-cv-07235 (ST)

Dear Judge Tiscione:

This office represents Plaintiff in the above captioned matter. This letter is in response to the Court's order denying the motion for approval of the settlement of Plaintiff's FLSA claims. (dkt: 022) For convenience, a copy of the proposed FLSA settlement agreement is re-annexed hereto as Exhibit A. The parties respectfully renew their request for approval of the FLSA settlement.

The parties previously agreed to settle Plaintiff's non-FLSA claims brought under the New York State Human Rights Law, New York City Human Rights Law and New York Labor Law. Judge Block endorsed the parties' stipulation dismissing those claims on or about May 10, 2016. DKT. 18; *see also Abrar v. 7-Eleven, Inc.*, 2016 U.S. Dist. LEXIS 50416, at *3 (E.D.N.Y. Apr. 14, 2016) (approving "bifurcated settlement structure" with review of FLSA settlement under *Cheeks* and confidential settlement of non-FLSA claims). As described in the parties' joint correspondence to Judge Block dated May 3, 2016, the parties agree that records of Plaintiff's hours worked and wages paid establish that damages allegedly owed to Plaintiff as and for her FLSA claims are nominal; the consideration paid under the instant FLSA settlement exceeds the maximum potential value of such claim, and counsel is accepting no fee from the consideration paid to resolve the claim.

Should further information be required, the parties are available for a telephone or in person conference at the Court's convenience.

Respectfully Submitted,

Jacob Aronauer
The Law Offices of Jacob Aronauer
Attorneys for Plaintiff

cc: **Via ECF**
Mr. John J. Porta, Esq.
Jackson Lewis PC
Attorney for Defendants

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MERLYN ABREU DE LOS SANTOS, Plaintiff, -against- THE HINDU TEMPLE SOCIETY OF NORTH AMERICA, and UMA MYSOREKAR, and GONZALO GUEVARA, individually, Defendants.	Case No. 15-cv-07235 (FB)(SMG)

SETTLEMENT AGREEMENT AND GENERAL RELEASE

WHEREAS, Merlyn Abreu De Los Santos ("Plaintiff"), and The Hindu Temple Society of North America, Uma Mysorekar and Gonzalo Guevara (collectively "Defendants"), desire to resolve, settle and agree to dismiss with prejudice all claims Plaintiff has made pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 250, et seq., that were raised in or by the Amended Complaint in the above-captioned action (the "Lawsuit"), without further litigation or adjudication;

WHEREAS, Plaintiff and Defendants have chosen to enter into this agreement to avoid further proceedings with respect to any and all claims Plaintiff has made pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 250 et seq., (referred to as "FLSA Claims") against Defendants in this Lawsuit or that Plaintiff could assert in any other case or forum and intending to settle, bar and waive any and all such claims that Plaintiff has or may have against Defendants;

WHEREAS, Plaintiff and Defendants understand and agree that Defendants deny each and every allegation of wrongdoing, including, but not limited to, the allegations and statements contained in the pleadings in the Lawsuit and any other matter or thing whatsoever;

WHEREAS, a *bona fide* dispute exists as to Plaintiff's claims for unpaid overtime wages;

WHEREAS, Plaintiff and Defendants understand and agree that neither the making of this Settlement Agreement and General Release (hereinafter the "Agreement") nor anything contained herein shall be construed or considered in any way to be an admission by Defendants or any other person or entity of guilt or noncompliance with any federal, state or local statute, order, regulation or ordinance, public policy, tort law, contract (whether oral or written, express or implied), common law, Defendants' policies, practices, benefit plans, compensation plans or procedures, or any other wrongdoing whatsoever; and

WHEREAS, Plaintiff's FLSA claims shall be dismissed in their entirety and with prejudice by the Court pursuant to the Stipulation and Order of Partial Dismissal with Prejudice to be executed by Plaintiff and counsel for the Defendants, as set forth below:

NOW, THEREFORE, IT IS STIPULATED AND AGREED BY AND BETWEEN THE PARTIES that:

1. Definition of Parties.

a. "Releasor" is defined to include, but is not limited to, Merlyn Abreu De Los Santos, and all presently or formerly affiliated persons or entities, including, but not limited to, her dependents, heirs, assigns, successors, creditors, debtors, lienholders or others who might assert any claim because of conduct toward or including Releasor herself. If an obligation or right is that of Merlyn Abreu De Los Santos alone, she will be referred to as "Ms. Abreu De Los Santos"; and,

b. "Releasees" is defined to include, but is not limited to, The Hindu Temple Society of North America, and all present or former subsidiaries, divisions, and affiliated entities, including but not limited to employee benefit plans, insurers (including, without limitation, Chubb Group), successors, assigns, counsel, administrators, heirs, creditors, debtors, board members, executors, officers, partners, directors, agents, fiduciaries, representatives, employees (including, but not limited to Uma Mysorekar and Gonzalo Guevara), the former employees and representatives of any such entity and any otherwise related persons or entities. If an obligation or right is that of The Hindu Temple Society of North America alone, it will be referred to as "The Hindu Temple Society."

2. Plaintiff's Commitments. In exchange for the promises made by The Hindu Temple Society in paragraph "4" below, Plaintiff agrees as follows:

a. Ms. Abreu De Los Santos will execute, or her counsel will execute, all documents, including, but not limited to the Stipulation and Order of Final Dismissal with Prejudice, attached hereto as Exhibit A, dismissing this Lawsuit and any other document(s) needed to settle, waive, dismiss and withdraw, with prejudice, any and all known or unknown FLSA Claims contained in complaints, suits, actions, charges, claims or proceedings against Defendants existing or which could exist as of the date of the execution of this Agreement;

b. An order of partial dismissal with prejudice as to Plaintiff's FLSA claims shall be entered upon presentation of said Stipulation by Defendants or by any other entity to any court of competent jurisdiction, administrative agency or other forum where any claim is made or any relief or recovery is sought by, relating to or on behalf of Plaintiff and both parties shall cooperate fully in seeking dismissal and will prepare all papers and motions needed to do so;

c. In the event that, for any reason, any FLSA Claim contained in a complaint, grievance, suit, action, charge, claim or proceeding existing as of the date of this Agreement is not wholly and finally dismissed with prejudice, (i) Plaintiff authorizes Defendants to take all actions needed to obtain dismissal thereof; (ii) Plaintiff shall not testify, provide documents, or otherwise participate or cause others to participate in Plaintiff's behalf in any litigation or investigation arising therefrom, except as compelled by subpoena or law or provided herein; (iii) Plaintiff shall indemnify and shall hold Releasees harmless against and will not obtain or accept on her behalf any recovery or relief in or from any such proceeding; and, (iv) Plaintiff shall reimburse Releasees for the legal fees and costs incurred defending any claim, action or proceeding initiated by Plaintiff against Releasees;

d. This Agreement may be introduced (with the settlement amount redacted and shown to the Court in camera) only in a proceeding to enforce its terms, to establish a breach of this Agreement, to establish conclusively the settlement and general release of all claims, or to establish the withdrawal and dismissal of the FLSA Claims;

e. Except to enforce the terms of this Agreement or as otherwise provided herein, Plaintiff shall not institute, be represented in, participate in or cause to be submitted or filed on Plaintiff's behalf any claim whatsoever, whether in an individual, class or other action, before any administrative agency, court, or other forum or accept any relief or recovery from or against Defendants; and,

f. Plaintiff will not accept any award or settlement from any source or proceeding brought by any other person or by any government agency with respect to any

FLSA claim or right waived in this Agreement (and all monies paid hereunder will be set off against any relief or recovery from Defendants not barred by this Agreement).

3. General and Unlimited Release of All Claims.

a. Plaintiff knowingly, voluntarily, and with prejudice, releases and forever discharges Defendants of and from any and all FLSA claims of any kind or nature, whether known or unknown, arising up to and as of the date of the execution of this Agreement, which may exist against Defendants, including, but not limited to, the FLSA Claims contained in the Amended Complaint in the Lawsuit and any other alleged violation of:

- The Fair Labor Standards Act, the New York Labor Law and any other wage, compensation, wage payment, wage theft or other law governing payment of wages; and
- any claim for costs, fees, or other expenses, including, but not limited to, a claim for attorneys' fees or costs.

4. Consideration.

a. In exchange for the promises made herein by Plaintiff, including the general and unlimited release of the claims referenced in Paragraph 3, including Plaintiff's FLSA claims she has or may have against Defendants arising up to, and including the date of the execution of the instant Agreement, The Hindu Temple Society agrees to release and forever discharge Plaintiff of and from any and all claims of any kind or nature, whether known or unknown, which Releasees may have against Releasor;

b. To pay the total sum of One Thousand and Seventeen Dollars and no cents ($1,017.00) ("the Settlement Sum") made payable to the Order of "Merlyn Abreu De Los Santos" for alleged unpaid overtime for which a Form W-2 will be issued to Plaintiff utilizing the last W-4 on file with The Hindu Temple Society;

c. The Settlement Sum shall be paid within twenty (20) days following the Court's So Ordering of the Stipulation and Order of Partial Dismissal and a W-2 shall be issued as appropriate;

d. The Settlement Sum shall be sent to Plaintiff's counsel who shall be responsible for distribution of the payment to Plaintiff; and,

e. Upon the complete execution of this Negotiated Settlement Agreement the parties shall jointly submit to the Court the Stipulation and Order of Partial Dismissal with Prejudice, and this Negotiated Settlement Agreement in order for the Court to approve its terms.

5. Affirmations.

a. As a consequence of this settlement, Plaintiff affirms that she has been paid and received all compensation, wages, bonuses, commissions, benefits and other monies to which she was entitled for work performed and that no other compensation, wages, bonuses, commissions, benefits or other monies are due; and

b. Ms. Abreu De Los Santos affirms that her claim against Defendants does not involve any illness, injury, incident, or accident in which medical expenses were, or are expected to be, incurred and there is no basis to file a claim for workers compensation or disability insurance benefit.

6. Non-Admission of Wrongdoing. Plaintiff and Defendants agree that neither this Agreement nor the furnishing of the consideration provided for herein shall be deemed or construed at any time for any purpose as an admission of any liability or unlawful conduct of any kind by Defendants.

7. Execution.

a. The terms of this Agreement are the product of mutual negotiation and compromise. The meaning, effect and terms of this Agreement have been explained to Ms. Abreu De Los Santos by her counsel, The Law Offices of Jacob Aronauer. As a jointly drafted agreement, no provision herein shall be interpreted or construed for or against any party because both parties participated in the drafting of these provisions;

b. Ms. Abreu De Los Santos fully understands that this Agreement finally and forever releases, settles, bars and waives any and all FLSA claims that Plaintiff could possibly have asserted against Defendants, and is fully satisfied with the advice and counsel provided by her attorney in this matter;

c. Plaintiff has been advised by counsel that ample time will be provided for consideration of the meaning and effect of this Agreement and to consult with counsel prior to execution of this Agreement; and,

d. Ms. Abreu De Los Santos has not been induced by any representation or promise that does not expressly and unequivocally appear in this Agreement or by any act or omission of Defendants to execute this Agreement.

8. Severability and Modification.

a. If any provision of this Agreement is declared illegal or unenforceable by any court, administrative agency, arbitration or other entity, Plaintiff and Defendants agree that such arbitrator, court, administrative agency or other entity has the full authority to and shall interpret and modify all such provision(s) to be enforceable. If such interpretation or modification is not possible, such provision immediately shall become null and void, leaving the remainder of this Agreement in full force and effect, which then shall be interpreted to bar any and all FLSA Claims Plaintiff may have against Defendants; and,

b. If the general and unlimited release of all claims contained herein is limited or held to be null and void, (i) this Agreement shall be interpreted to bar any FLSA Claim Releasor may assert; and (ii) Plaintiff shall execute an enforceable general and unlimited release on all FLSA Claims on behalf of Releasor.

9. Section Headings. Section headings are used herein for reference only and do not affect the meaning of any provision of this Agreement.

10. Entire Agreement.

a. This Agreement (which incorporates as contractual covenants the representations and clauses in the introductory "Whereas" clauses) represents the complete understanding by and between Plaintiff and Defendants regarding the above-captioned action and shall be interpreted under New York law to effect a full settlement and general and unlimited release of all actual or potential FLSA Claims, whether known or unknown, asserted or unasserted;

b. Plaintiff's other claims, including but not limited to, those addressing alleged violations of Title VII of the Civil Rights Act of 1964 and the New York City Human Rights Law, have been resolved pursuant to a separate confidential agreement between the parties; and

c. No other promises or agreements shall be binding or shall modify this Agreement. This Agreement can be modified only as provided in Paragraph 8, above, or by a written document, signed by an authorized representative of The Hindu Temple Society, which recites the specific intent to modify this Agreement.

11. Capability to Waive Claims. Ms. Abreu De Los Santos is competent to agree to a knowing and voluntary general and unlimited release of all claims, as contained

herein, is not affected or impaired by illness, use of alcohol, drugs or other substances and is not otherwise impaired. Ms. Abreu De Los Santos is not a party to any bankruptcy, lien, creditor-debtor or other proceeding which would impair the right to settle all claims against Defendants or to waive all claims and fully understands, in English, this Agreement.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and each of which shall together constitute one and the same agreement. A signed fax or .pdf copy shall, for all purposes, be deemed an original and in full force and effect.

MS. ABREU DE LOS SANTOS HAS BEEN ADVISED THAT SHE HAS A REASONABLE TIME TO REVIEW THIS AGREEMENT AND HAS BEEN ADVISED IN THIS WRITING TO CONSULT WITH AN ATTORNEY PRIOR TO EXECUTION OF THIS AGREEMENT.

HAVING ELECTED TO EXECUTE THIS AGREEMENT, AND TO RECEIVE THEREBY THE CONSIDERATION SET FORTH IN PARAGRAPH 4 HEREOF, MS. ABREU DE LOS SANTOS FREELY AND KNOWINGLY AND AFTER CONSULTATION WITH COUNSEL, ENTERS INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE AND GENERALLY RELEASE ALL FLSA CLAIMS SHE HAS OR MIGHT HAVE AGAINST RELEASEES.

The Parties knowingly and voluntarily sign this Agreement as of the date(s) set forth below:

PLAINTIFF:

Dated: April 21, 2016

Merlyn A. Abreu

MERLYN ABREU DE LOS SANTOS

STATE OF NEW YORK)
) ss.:
COUNTY OF New York)

JACOB ARONAUER NOTARY PUBLIC Exp. May 20, 2017 NEW YORK COUNTY

On the 21 day of April 2016, before me, the undersigned notary, **MERLYN ABREU DE LOS SANTOS** personally appeared and proved to me, on the basis of satisfactory evidence, that she is executing this **Negotiated Settlement Agreement** intending to settle, release and waive any claims of any kind against Defendants, as defined in the Agreement.

Signature and Office of individual taking acknowledgment

DEFENDANTS:

THE HINDU TEMPLE SOCIETY OF NORTH AMERICA

Dated: April 25, 2016

By: ______________________
Pres

Title: President

UMA MYSOREKAR

U Mysorekar

Dated: April 25, 2016

GONZALO GUEVARA

Gonzalo Guevara

Dated: April ___, 2016

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MERLYN ABREU DE LOS SANTOS,

Plaintiff,

-against-

THE HINDU TEMPLE SOCIETY OF NORTH AMERICA, and UMA MYSOREKAR, and GONZALO GUEVARA, individually,

Defendants.

Case No. 15-cv-07235 (FB)(SMG)

STIPULATION AND ORDER OF PARTIAL DISMISSAL OF FLSA CLAIMS WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, MERLYN ABREU DE LOS SANTOS, and Defendants, THE HINDU TEMPLE SOCIETY OF NORTH AMERICA, UMA MYSOREKAR, and GONZALO GUEVARA, through their respective undersigned counsel, the causes of action contained in Paragraphs 53-69 of the Amended Complaint in the above-captioned action shall be dismissed in their entirety, with prejudice, in accordance with the terms of the Settlement Agreement.

THE LAW OFFICES OF JACOB ARONAUER
ATTORNEY FOR PLAINTIFF
225 Broadway, Suite 307
New York, NY 10007
(212) 323-6980

By: ______________________
Jacob Aronauer, Esq.
Dated: 4/21/2016

JACKSON LEWIS P.C.
ATTORNEYS FOR DEFENDANTS
58 South Service Road, Suite 250
Melville, NY 11747
(631) 247-0404

By: ______________________ PJS
Paul J. Siegel, Esq.
Dated: 4/28/16

BERGSTEIN & ULLRICH, LLP
ATTORNEY FOR PLAINTIFF
15 Railroad Avenue
Chester, New York 10918
(845) 469-1277

By: ______________________
Stephen Bergstein, Esq.
Dated: 4/21/2016

SO ORDERED on this ___ day of _________, 2016,

____
U. S. D. J.